PROPERTY ASSESSMENT APPEAL BOARD FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2021-077-00366R Parcel No. 320/04927-196-003

Petr Petrosov,

Appellant,

VS.

Polk County Board of Review,

Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on January 14, 2022. Petr Petrosov was self-represented. Assistant Polk County Attorney Mark Taylor represented the Board of Review.

Petr Petrosov and Iveta Kershenbaum own a residential property located at 4909 Westbrooke Place, West Des Moines, Iowa. The property's January 1, 2021, assessment was set at \$300,900, allocated as \$45,900 in land value and \$255,000 in dwelling value. (Ex. A).

Petr Petrosov petitioned the Board of Review contending the assessment was not equitable compared with the assessments of other like property in the taxing district, that the property was assessed for more than authorized by law, that there was an error in the assessment, and fraud or misconduct in the assessment. Iowa Code § 441.37(1)(a)(1)(a, b, d & e). (2021). (Ex. C). The Board of Review denied his petition. (Ex. B).

Petrosov then appealed to PAAB reasserting most of his claims except for the claim of fraud or misconduct.

General Principles of Assessment Law

PAAB has jurisdiction of this matter under lowa Code sections 421.1A and 441.37A. PAAB is an agency and the provisions of the Administrative Procedure Act apply. § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB may consider any grounds under lowa Code section 441.37(1)(a) properly raised by the appellant following the provisions of section 441.37A(1)(b) and lowa Admin. Code Rule 701–126.2(2-4). New or additional evidence may be introduced. *Id.* PAAB considers the record as a whole and all of the evidence regardless of who introduced it. *Id.*; *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (lowa 2005). There is no presumption that the assessed value is correct, but the taxpayer has the burden of proof. §§ 441.21(3); 441.37A(3)(a). The burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d 392, 396 (lowa 2009) (citation omitted).

In lowa, property is to be valued at its actual value. § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* "Sale prices of the property or comparable property in normal transactions reflecting market value, and the probable availability or unavailability of persons interested in purchasing the property, shall be taken into consideration in arriving at its market value." *Id.*

Findings of Fact

The subject property is a two-story home built in 1992. It has 2178 square feet of gross living area, 800 square feet of average quality basement finish, a 528-square-foot attached garage, two fireplaces, an open porch, a deck, and a patio. It is listed in normal condition with good-quality construction (grade 3-05). The site is 0.218 acres. The property is located in Neighborhood Pocket WD01/B, which receives a 0.950 adjustment in the assessment. (Ex. A).

Petrov described his home as in original condition with a 30-year-old kitchen that needs remodeling. (Appeal). Additionally, he testified his property suffered damage from

a severe storm in August 2020 that damaged his roof and broke four large trees in his backyard which cost \$5000 to remove. (Appeal & Ex. 2). Petrosov stated the loss of trees reduced his privacy and left his yard open to a view of a "swamp/ponding area." In his opinion, the change in view reduced the value of his property by \$10,000. He did not submit any additional evidence to support this value estimate.

Petrosov also testified that a roofing contractor reviewed his roof and noted several areas of damage caused by the storm; he included pictures of the damage. (Ex. 3). He stated to replace the roof would cost \$20,000, but submitted no corroborating evidence, such as an estimate. Petrosov acknowledged he replaced the roof in 2012, and his insurance company had denied coverage for the August 2020 damage.

Petrosov has not obtained an appraisal of his property or a comparative market analysis by a realtor. He stated he has no intention of selling his property.

Petrosov analyzed the assessed values compared to sale prices of five properties in his neighborhood that occurred between 1999 and 2019. (Exs. 1, D & H). According to his research, the sale prices of these properties were less than their assessed values in the year in which they sold. He asserts this shows a systematic overvaluing of properties. He averaged the differences in assessments versus sale prices and arrived at a figure of 12% that he believes represents the level of overassessment. Based on this data, he asserts his property's assessment should be reduced by 12% to \$265,000 to properly reflect its market value. He provided no information concerning these sales, such as their condition at time of sale, sale conditions, amenities they may have possessed when they sold. Moreover, the most recent transaction occurred in 2019. Petrosov acknowledged he did not factor in the differences in the properties or their sale conditions, but rather simply compared assessed values to sale prices.

Petrosov's most recent sale, located at 1004 Westbrooke Court, sold in 2019 and was from an executor and listed as a "Court Office Deed" by the Assessor's Office. (Ex. D). Some sales are considered *per se* abnormal and are not to be used without adjustment in assessing real property under lowa law. § 441.21(1)(b). As it relates to the subject property's transaction, PAAB has previously noted that without further

information, the purchase of a sale from an estate may or may not be a normal transaction. Without additional information, it's not possible to determine whether the sale of 1004 Westbrooke Court was a normal, arm's-length sale.

Three of the four other transactions were sales of one-story homes with different amenities compared to the subject property. (Exs. E, F, & H). Petrosov acknowledged these properties were not comparable to his. The only other sale of a two-story home, 4801 Westbrook Place, took place in 2011; ten years prior to the assessment year in question. (Ex. G). Petrosov acknowledged this was the only property truly comparable to his. Its 2021 assessment is \$324,000. The record does not contain any data demonstrating the current market values of these properties. However, we note the 2021 assessments of four of these properties exceed the assessed value of the subject property. The one property with a lower assessment, 4913 Westbrooke Place, is an older one-story home with 1668 square feet of gross living area, 550 square feet of basement finish, 440 square feet of attached garage area, and only one fireplace. (Ex. H).

Petrosov also submitted four properties in his neighborhood he believes are comparable to his, but each have 3-car garages. He asserts they are superior to his home, yet they have lower assessed values. (Exs. 4, 5, & I-L). These properties are summarized in the following table.

Address	Year Built	Neighborhood Pocket	Gross Living Area (SF)	Basement Finish (SF)	Garage Size (SF)	Sale Date	Sale Price	2021 Assessed Value
Subject	1992	WD01/B	2178	800	528	N/A	N/A	\$300,900
1 – 1021 58th St	1990	WD02/A3	2259	0	640	Apr-12	\$240,000	\$300,500
2 – 1025 58th St	1990	WD02/A3	2200	378	640	Dec-19	\$275,000	\$260,900
3 – 1029 58th St	1988	WD02/A3	1980	0	618	Apr-21	\$300,000	\$242,400
4 - 1024 59th St	1992	WD02/A2	2216	376	660	Sep-05	\$222,000	\$279,800

All of the properties were built in the same time period, are of similar condition and quality of construction, and have similar gross living area as compared to the subject property.

Comparables 2 and 4 are split-level homes as opposed to the subject's two-story design.

The subject has the largest basement finish area but also the smallest garage. The comparable sites are all slightly larger than the subject. The main difference between the properties and the subject is location. The subject is located in Neighborhood Pocket WD01/B and the comparables are all located in Neighborhood Pocket WD02/A3 or A2.

Only Comparables 2 and 3 could be considered recent sales. Each sold for more than their assessments, reflecting assessed value to sale price ratios of 0.95 and 0.81 respectively. A ratio of less than 1.00 is indicative that assessed values are below market value.

Residential Deputy Assessor Lois Hand-Miller testified on behalf of the Board of Review. She noted there were no 2020 sales in the subject's neighborhood and Exhibit 1 identified the most recent sale as a 2019 sale from an estate. Hand-Miller further testified Petrosov's comparables on Exhibit 4 were all located West of Interstate 35 (I-35), in different neighborhood pockets; Petrosov's property is located east of I-35. The properties in Neighborhood Pocket WD02/A3 receive a 0.850 adjustment to their assessments, which is more than the subject's adjustment of 0.950. Thus, their assessments, assuming all other things equal, would expected to be lower. Hand-Miller also noted the two split-level homes also receive additional market adjustments applied by the Board of Review. (Exs. J & K).

Hand-Miller also testified the assessment process does not recognize landscaping, such as trees, existing or not, in the valuation process.

Analysis & Conclusions of Law

Petrosov contends the subject property is inequitably assessed, over assessed, and that there is an error in the assessment. Iowa Code § 441.37(1)(a)(1)(a, b & d). He bears the burden of proof. § 441.21(3).

Under section 441.37(1)(a)(1), a taxpayer may claim that their "assessment is not equitable as compared with assessments of other like property in the taxing district." To prove inequity, a taxpayer may show the property is assessed higher proportionately

than other like property using criteria set forth in *Maxwell v. Shivers*, 133 N.W.2d 709 (lowa 1965). The six criteria include evidence showing

"(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination."

Id. at 711. The *Maxwell* test provides that inequity exists when, after considering the actual values and assessed values of comparable properties, the subject property is assessed at a higher proportion of its actual value. *Id.* This is commonly done through an assessment/sales ratio analysis comparing prior year sales (2020) and current year assessments (2021) of the subject property and comparable properties.

Petrosov submitted five properties with sales between 1999 and 2019 that he believes support his claim. We find the sales are too dated to use in a *Maxwell* analysis. The most recent sale in 2019 was a sale from an estate, and without more information, we cannot determine whether the transaction reflects the property's fair market value for assessment purposes. Moreover, one comparable is not sufficient to establish inequity under lowa law. *Miller v. Property Assessment Appeal Bd.*, 2019 WL 3714977 *4 (lowa Ct. App. 2019).

In addition to showing the ratios of comparable properties, Petrosov must show the subject's actual value. This is the same requirement to demonstrate the subject is assessed for more than authorized by law. The taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Soifer v. Floyd Cnty. Bd. of Review*, 759 N.W.2d 775, 780 (Iowa 2009) (citation omitted). The subject property did not recently sell and Petrosov did not submit an appraisal or Competitive Market Analysis (CMA). The other comparable properties he offered were not in his neighborhood pocket, were not all of similar design, and had other features that were different from the subject property. None sold in 2020, but the sales in late 2019 and 2021 indicate properties in this West Des Moines area are selling for more than their

assessed values. Furthermore, Petrosov failed to adjust any of the comparables for these differences or attempt to conclude a market value for the subject.

Because of a lack of evidence of recent comparable sales, we find the *Maxwell* analysis cannot be completed and that Petrosov has not established inequity in his assessment under *Maxwell* or that his property is assessed for more than authorized by law. Additionally, he has failed to show his property is assessed for more than the value authorized by law.

A taxpayer may also show inequity by demonstrating an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Petrosov focuses exclusively on the differences in the subject and his comparables' assessments. We note differences between the subject and the comparables may explain their differing assessments. Simply comparing assessments for the assessment year in question, or historically, is insufficient to support an inequity claim.

Petrosov also asserts there is an error in the assessment, mainly based upon his assertion the loss of trees and roof damage are not considered in his property's assessment. An error may include, but is not limited to, listing errors or erroneous mathematical calculations. Iowa Admin. Code R. 701-71.20(4)(b)(4). Petrosov contends these factors reduce the market value of his property. However, he did not provide evidence, other than his opinion, demonstrating what impact, if any, these issues would have on his value. Hand-Miller noted that landscaping, including the existence or absence of trees is not a value component in the assessment. Considering the evidence in the record, we find Petrosov failed to establish an error in the assessment. We suggest Petrosov consider requesting an inspection of the subject property by the assessor's office if he believes the condition of his home or yard are not accurately listed.

Viewing the record as a whole, we conclude that Petrosov failed to show his property is inequitably assessed, over assessed, or that there is an error in the assessment.

Order

PAAB HEREBY AFFIRMS the Polk County Board of Review's action.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A.

Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action.

Any judicial action challenging this Order shall be filed in the district court where the property is located within 30 days of the date of this Order and comply with the requirements of Iowa Code section 441.37B and Chapter 17A.19 (2021).

Elizabeth Goodman, Board Member

Dennis Loll, Board Member

Karen Oberman, Board Member

Copies to:

Petr Petrosov by eFile

Polk County Board of Review by eFile